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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,175	03/19/2004	Brian K. Bcesley	23222	7418

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EXAMINER

SORKIN, DAVID L

ART UNIT PAPER NUMBER

1723

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/805,175

Applicant(s)

BEESLEY, BRIAN K.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/04 & 06/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 and 9-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Brewer (US 1,930,948). Regarding claim 1, Brewer ('948) discloses a device comprising a container (10) having a longitudinal axis (A—A), a mixing assembly (18,23,24,25) having a rotational axis (B—B); said axes being different and non-collinear (see Fig. 2). Regarding claim 2, the axes are offset (see Fig. 1). Regarding claim 3, the axes are transverse (see Fig. 2). Regarding claim 4, the rotational axis (A—A) is vertical while the longitudinal axis (B—B) is oriented at an acute angle with respect to vertical (see Fig. 2). Regarding claim 5, the container has a front wall that is substantially vertical and a rear wall that is at an acute angle to vertical (see Fig. 2). Regarding claim 6, the container has upper and lower horizontal cross sections that are non-concentric (see Fig. 2). Regarding claim 7, the upper edge of the container would be capable of being used in the recited manner. Regarding claim 9, Brewer (US 1,930,948) discloses a device comprising a base (12) with a motor (see page 1, line 86) capable of turning a drive mechanism (14) extending therefrom; and an off-axis goblet (10), disposed on the base, having a longitudinal axis (A—A) centered within the goblet and a mixing assembly (18,23,24,25) having a rotational axis (B—B); said axes

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being different and non-collinear (see Fig. 2). Regarding claim 10, the axes are offset (see Fig. 1). Regarding claim 11, the axes are transverse (see Fig. 2). Regarding claim 12, the rotational axis (A—A) is vertical while the longitudinal axis (B—B) is oriented at an acute angle with respect to vertical (see Fig. 2). Regarding claim 13, the container has a front wall that is substantially vertical and a rear wall that is at an acute angle to vertical (see Fig. 2). Regarding claim 14, the container has upper and lower horizontal cross sections that are non-concentric (see Fig. 2). Regarding claim 15, the upper edge of the container would capable of being used in the recited manner. Regarding claim 16, Brewer ('948) discloses a device comprising a container (10) having a longitudinal axis (A—A) centered within the container; a mixing assembly (18,23,24,25) having a rotational axis (B—B), the rotational axis being oriented substantially vertically (see Fig. 2); said axes being different and non-collinear (see Fig. 2). Regarding claims 17-22, Brewer ('948) discloses a device comprising a container (10) having a longitudinal axis (A—A) centered within the container; a mixing assembly (18,23,24,25) having a rotational axis (B—B), the rotational axis is oriented substantially vertical and the longitudinal axis is at an acute angle with respect to vertical, and at an acute angle to the longitudinal axis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels (US 6,527,433) in view of Brewer (US 1,930,948). Regarding claim 8, Daniels ('433) discloses a device comprising a container (14), a mixing assembly (38), a base (18) having a motor (22) capable of turning a drive mechanism (26) extending therefrom, the container being disposable on the base with the drive mechanism engagable with the mixing assembly; a spout (80), coupled to the container; a cup indentation (100) formed in the base at a position underneath the spout when the container is disposed on the base, the cup indentation extending into the base and extending vertically from the spout through a bottom of the base (see Fig. 2); and a pair of protrusions (104), extending from the base with the cup indentation therebetween. Daniels ('433) does not disclose the container axis and mixing assembly axis being different and non-collinear. Brewer ('948) teaches a device comprising a container (10) having a longitudinal axis (A—A), a mixing assembly (18,23,24,25) having a rotational axis (B—B); said axes being different and non-collinear (see Fig. 2). It would have been obvious to one of ordinary skill in the art to made the axes of Daniels ('948) different and non-collinear as taught by Brewer ('948) to achieve the benefit of more thorough mixing explained on page 2, lines 9-50).

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS